



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,849	10/07/2003	Annette Beaulieu	FR920020070US1	5822

23550	7590	08/02/2007
HOFFMAN WARNICK & D'ALESSANDRO, LLC		
75 STATE STREET		
14TH FLOOR		
ALBANY, NY 12207		

EXAMINER	
ANWARI, MACEEH	

ART UNIT	PAPER NUMBER
2144	

MAIL DATE	DELIVERY MODE
08/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/680,849	Applicant(s) BEAULIEU ET AL.	
	Examiner Maceeh Anwari	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the initial Office action based on the 10/680,849 application filed on 10/07/2003. Claims 1-9, as originally filled, are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8- 9 are rejected under 35 U.S.C. 101 because the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "non-functional descriptive material." Both types of "descriptive material" are non-statutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Art Unit: 2144

Merely claiming non-functional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 rejected under 35 U.S.C. 102(b) as being anticipated by Skemer (hereinafter Skemer) U.S. Publication NO.: 2001/0044893 A1.

Brown teaches claims:

1. A method executed by an agent on a computing system, providing robustness to an accounting function of user sessions established by at least one NAS in an IP network (Figure 3-4 and Abstract; reads on this limitation by talking about network access servers), the accounting function being performed on a RADIUS server storing an ID, IP address and secret code for each of the at least one NAS and information identifying each established session (Figure 5-6 and Abstract & Par. 25;

reads on this limitation by making mention of RADIUS servers and authentication), said method comprising the steps of: identifying for the RADIUS server, the agent as a RADIUS client of the RADIUS server (Figure 5-6 and Abstract & Par. 25 & 38; reads on this limitation by making mention of RADIUS servers and authentication), polling from the agent the at least one NAS and (Figure 3-4 and Abstract & Par. 56; reads on this limitation by making mention of periodic polls), if no answer is received from at least one non-responding NAS, sending from the agent a RADIUS stop accounting request to the RADIUS server for all sessions established by the at least one non-responding NAS (Figure 1-6 and Abstract & Par. 38 & 42; reads on this limitation by making mention of time sessions).

2. The method of claim 1, wherein the identifying step comprises the step of storing the ID, the IP address and the secret code of the agent ((Figure 5-6 and Abstract & Par. 25; reads on this limitation by making mention of RADIUS servers and authentication).

3. The method of claim 1, wherein the polling step comprises the step of waiting for an expiration of a timer which is a first parameter defined during an installation of the agent (Figure 1-6 and Abstract & Par. 38 & 42; reads on this limitation by making mention of time sessions).

4. The method of claim 1, wherein the polling step is repeated n times, n being an integer defined at an installation of the agent (Figure 3-4 and

Abstract & Par. 56; reads on this limitation by making mention of periodic polls).

5. The method of claim 1, wherein the polling step and the sending step further comprise a step of reading a table owned by the RADIUS server containing one entry per established session and, for each entry, information to identify the NAS and prepare parameters for the RADIUS stop accounting request (Figure 3-6 and Abstract & Par. 56 & 38 & 42; reads on this limitation by making mention of periodic polls, authentication, timed sessions and storing of information).

6. The method of claim 5, wherein the sending step comprises a preliminary step, after reading the established session table, of, including as parameters of the RADIUS stop accounting request: accounting status, accounting session time, a NAS identifier; a session identifier and an authenticator (Figure 3-6 and Abstract & Par. 56 & 38 & 42; reads on this limitation by making mention of periodic polls, authentication, timed sessions and storing of information).

7. The method of claim 6 further comprising the steps of: computing the accounting session time by subtracting the session start time read in the established session table from a current computing system timestamp (Figure 5-6 and Par. 38 & 42 & 50; reads on this limitation by reciting timed sessions, and time stamping); and, computing the authenticator as a function of the secret code read with the ID and the IP address stored for

Art Unit: 2144

the corresponding NAS (Figure 5-6 and Abstract & Par. 25 & 38; reads on this limitation by making mention of RADIUS servers and authentication).

8. A computer program product comprising programming code instructions for executing the steps of the method according to of claim 1 when said program is executed on a computing system (See rejection scope of claim 1).

9. A computing system comprising means adapted for carrying out the method according to of claim 1 (See rejection scope of claim 1).

Examiner Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner

Conclusion

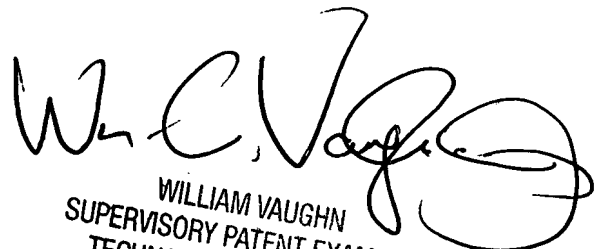
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maceeh Anwari whose telephone number is 571-272-7591. The examiner can normally be reached on Monday-Friday 7:30-5:00 PM ES.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2144

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.A.


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100